

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SERVANTS OF JESUS AND MARY, INC.,
d/b/a THE FATIMA CENTER.

Plaintiff,

v.

THE NATIONAL COMMITTEE FOR THE
NATIONAL PILGRIM VIRGIN OF CANADA,
and, THE FATIMA CENTER U.S.A., INC., and
ANDREW CESANEK.

Defendants.

**SEPARATE STATEMENT OF
UNDISPUTED FACTS IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

Docket No. 18-cv-00731

Pursuant to Local Rule 56(a)(1), defendant Andrew Cesanek, by his attorneys, sets forth the following Statement of Material Facts as to which this defendant contends there is no genuine issue to be tried.

<u>UNDISPUTED MATERIAL FACTS</u>	<u>SUPPORTING EVIDENCE</u>
1. Andrew Cesanek (“Mr. Cesanek”) lives in a 750-square-foot apartment in Niagara Falls, New York, with his ailing 89-year-old mother, for whom he is the sole caretaker and provider.	Cesanek Declaration of February 24, 2021 (“2/24/21 Cesanek Decl.”); Cesanek Declaration of April 5, 2019 (Dkt # 29-5).
2. Mr. Cesanek first became associated with The National Committee for the National Pilgrim Virgin of Canada (“NPV”) in May 2000, when he began volunteering with Father Nicholas Gruner, the president of NPV at that time.	2/24/21 Cesanek Decl., at ¶ 3; Excerpts of Deposition of Andrew Cesanek (Exhibit 1 to Brady Declaration of February 24, 2021 (“Brady Decl.”)) at 23-26.

<p>3. Mr. Cesanek was called to serve Father Gruner because he believes deeply in the Fatima Message and in the urgency of spreading the Fatima Message.</p>	<p>2/24/21 Cesanek Decl., at ¶ 4.</p>
<p>4. The Fatima Message, in general terms, relates to a series of appearances of the Virgin Mary to three Portuguese shepherd children in 1917. In one of those appearances, the Virgin Mary, also known in this context as Our Lady of Fatima, revealed a series of prophecies, known as the Three Secrets of Fatima, which foretell the possible annihilation of nations and widespread worldwide suffering if the Message of Fatima is not heeded in time.</p>	<p>2/24/21 Cesanek Decl., at ¶ 5.</p>
<p>5. Mr. Cesanek has studied the Fatima Message deeply and is a devout believer in it. He is a committed and practicing Roman Catholic.</p>	<p>2/24/21 Cesanek Decl., ¶ 6.</p>
<p>6. Mr. Cesanek started receiving wages for his work for NPV in May 2008. Mr. Cesanek was paid through the payroll of Servants of Jesus and Mary, Inc. (“SJM”) from May 2008 through September 11, 2017. His earnings during this time ranged from \$12,000 to \$18,000 per year.</p>	<p>2/24/21 Cesanek Decl., ¶ 10; Ex.1 to Brady Decl., at 23-26.</p>

<p>7. During this period, from May 2008 through September 11, 2017, Mr. Cesanek at all times reported directly to NPV management. Although he received wages through SJM, he testified that in “practical reality” he worked for NPV.</p>	<p>2/24/21 Cesanek Decl., ¶¶ 7-9; Ex.1 to Brady Decl., at 23-26; Excerpts of Deposition Transcript of Ellen Montgomery (Ex. 7 to Brady Decl.), at 286.</p>
<p>8. His weekly status reports from 2015 through 2017 show that he reported directly to Michael Longval, the General Manager of NPV.</p>	<p>2/24/21 Cesanek Decl., ¶¶ 7-8; Exhibit A to 2/24/21 Cesanek Decl.</p>
<p>9. In fact, from 2009 through 2015, Mr. Cesanek was even physically located in Fort Erie, Canada, working directly at NPV headquarters. His work permits issued by the Canadian government indicate his employer was NPV at the time.</p>	<p>2/24/21 Cesanek Decl., ¶ 10; Exhibit B to 2/24/21 Cesanek Decl.</p>
<p>10. Under the leadership of Father Gruner, NPV’s mission was to ensure that the entire Message of Fatima is fully known, accurately understood, and deeply appreciated so that it may be followed by all.</p>	<p>Ex.1 to Brady Decl., 351-353.</p>

<p>11. Father Gruner was the President of both NPV and SJM until he died in April 2015.</p>	<p>Excerpts of Deposition Transcript of Leonard Cecere (Ex. 2 to Brady Decl.), at 80.</p>
<p>12. Under the leadership of Father Gruner, decades, NPV and SJM operated in lockstep. Few distinctions were observed between the organizations. Not only did they share a president in Father Gruner, multiple directors served on both boards, funds were exchanged between organizations, and individuals technically paid by one organization ended up essentially working for the other. During this time, the mission of NPV and SJM was the same: to spread the Fatima Message to everyone.</p>	<p>Letter of Michael Longval, bates numbered 07829-07830 (Ex. 3 to Brady Decl.); Excerpts of Deposition Transcript of Michael Longval (Ex. 4 to Brady Decl.), 74-76; Excerpts of Deposition Transcript of Coralie Graham (Ex. 5 to Brady Decl.), 93-95, 113-114;. Ex. 2 to Brady Decl., at 140-142; Excerpts of Deposition Transcript of Joanna Swords (Ex. 6 to Brady Decl.), 7, 62-64, 169-170, 259, 262-263.</p>
<p>13. In 2015, Father Gruner died. Neither organization had a succession plan. In May 2017, SJM elected a new priest, Father Kramer, as its president.</p>	<p>Ex. 2 to Brady Decl., at, 80; Ex. 7 to Brady Decl., 39, 132, 137-40.; SJM Board Minutes of May 1, 2017, bates numbered SJM001848 (Ex. 8 to Brady Decl.).</p>
<p>14. Father Kramer's interpretation of the Fatima Message differed from NPV's. Specifically, Father Kramer refused to recognized Pope Francis as the Pope and contended that the Message of Fatima necessarily addresses the apostasy presented by Pope Francis. Father Kramer explained at his deposition that in his view, Pope Francis (formerly known as Jorge Bergoglio) is the heretic anti-pope referred to in the Third Secret of the Fatima Message. Father Kramer further testified that by providing a venue for Pope Francis "propagandists," NPV was "attacking the Fatima Message at its heart." This is because,</p>	<p>Excerpts of Deposition Transcript of Father Paul Kramer (Ex. 9 to Brady Decl.), 117-119.</p>

<p>according to Father Kramer, the Third Secret reveals that “Satan will penetrate to the highest levels in the church” and that the elevation of Jorge Bergoglio being elevated to Pope Francis is “absolutely” part of Satan penetrating the highest levels of the church.</p>	
<p>15. This led to an ideological schism between two organizations that for decades prior had essentially acted as one. NPV split from SJM and formed a new American affiliate, Fatima Center USA, Inc. (“FCUSA”). Mr. Cesanek had no direct involvement in the founding of FCUSA.</p>	<p>Ex. 2 to Brady Decl., 381-382, 387, 394.</p>
<p>16. NPV announced the split from SJM in a letter to donors on August 22, 2017. The letter reads in pertinent part as follows:</p> <p>In June 1978, Father Gruner became the Executive Director of the National Committee for the National Pilgrim Virgin of Canada – which came to be known as the Fatima Center – and shortly thereafter published the first issue of <i>The Fatima Crusader</i>.</p> <p>Over the years, the graces sent from Our Lord through Our Lady and Father’s steadfast dedication turned this modest apostolate into the thriving, international organization it is today.</p> <p>From the beginning, Father Gruner made it clear that the mission of the Fatima Center was to promote the ENTIRE message of Fatima to EVERYONE.</p> <p>We, the Board of Directors, management team and staff of The Fatima Center want to stay true to the mission Father gave us. Sadly, however, there are those who think</p>	<p>August 22, 2017 letter of NPV, bates numbered SJM001192-SJM001194 (Ex. 10 to Brady Decl.).</p>

<p>that mission should be altered in fundamental ways....</p> <p>Since Father Gruner's death, the Board of Directors of the SJM has become more active in the decision-making process at the apostolate. Increasingly, however, they have pushed for The Fatima Center to change direction and become more radical in its orientation. They want to involve us in several controversial issues within the church today about which Catholics of goodwill can disagree....</p> <p>To preserve Father Gruner's legacy and the integrity of the Fatima Center's mission, we find it necessary to sever our connection with SJM....</p> <p>With your continued support, we pledge to stay focused on the mission given to us by Father to make the full Fatima Message understood and followed by all...</p> <p>We are confident we can fulfill our mission, in part because of Father's love, courage and persistence continues to inspire enthusiasm and hope in us, but mostly because we know the work we do is Our Lady's work and with Her on our side, we cannot fail.</p>	
<p>17. SJM's President, Father Kramer, did not dispute the existence of an ideological schism between SJM and NPV. Indeed, days after the above letter, on September 1, 2017, Father Kramer wrote, in a public letter:</p> <p>NPV is now silencing and opposing the most important part of the message of Fatima, namely the part in the Third Secret about the apostasy led by a heretic anti-Pope whose radical reforms will cause massive defection of the conciliar hierarchy from Catholicism to the dogma-free New</p>	<p>Public letter of Father Kramer, September 1, 2017. (Ex. 11 to Brady Decl.), at 16-17.</p>

<p>Religion, foretold by Pope St. Pius X in Notre charge apostolique.</p>	
<p>18. Following the split of NPV and SJM, Mr. Cesanek resigned his directorship at SJM at its next board meeting, on August 28, 2017. SJM's own minutes of that meeting state, "Andrew Cesa[n]k who worked under NPV management chose to remain with NPV Canada."</p>	<p>SJM Board Meeting Minutes of August 28, 2017, bates numbered SJM0001851-SJM0001852 (Ex. 12 to Brady Decl.).</p>
<p>19. Mr. Cesanek continued in his work for NPV without break, and his wages continued to be paid through SJM until September 11, 2017. At that time, SJM terminated his "employment" due to financial constraints. At her deposition, Ellen Montgomery of SJM reiterated that Mr. Cesanek was not terminated due to cause or because of misconduct, but only because of financial constraints.</p>	<p>Cesanek Termination Letter (Ex. 13 to Brady Decl.); Ex. 7 to Brady Decl., 301-304; Ex. 1 to Brady Decl., 353-355; Exhibit B to Cesanek Decl., at 100-102.</p>

<p>20. For Mr. Cesanek, little changed. He did not miss a beat, and he continued working for NPV, spreading the Message of Fatima, without pause; all that changed was the name on his paystub.</p>	<p>2/24/21 Cesanek Decl., at ¶¶ 12-13, Ex. 1 to Brady Decl., at 353-355.</p>
<p>21. SJM claims damages from Mr. Cesanek's alleged breach of fiduciary duty in the form of lost or diminished donations since the split in the amount of millions of dollars.</p>	<p>Excerpts of SJM's Responses and Supplemental Responses to NPV's First Set of Interrogatories (Ex. 14 to Brady Decl.)</p>

DATED: February 24, 2021
Buffalo, NY

Respectfully Submitted,

/s/ Daniel J. Brady

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